TAN LAY SOON

v.

KAM MAH THEATRE SDN. BHD.

HIGH COURT MALAYA, PENANG
EDGAR JOSEPH JR J
[CIVIL SUIT NO. 22-226-89]
27 MARCH 1990

LAND LAW: *Removal of caveat - Sections 326(1), 327(1) of the National Land Code - General principles applicable - Distinction between registered proprietor applicant and applicant who claims a right to an interest in land - Private caveats lodged 5 years after the registration of the charge.*

CONTRACT: *Alleged agreement between caveator and registered proprietor - Application for specific performance of alleged agreement - Defence of 'subject to' contract - Whether there was failure to agree on certain terms whether proprietor estopped from relying a failure to execute formal S & P.*

On 13 June 1984, the registered proprietor of the said lands had charged them to the chargee for the purpose of securing the repayment of a loan of RM1,500,000 together with interest thereon on terms appearing in the charge.

The registered proprietor, the chargor, defaulted in the repayment and the chargee took the usual preliminary steps with a view to commencing foreclosure proceedings to enforce the charge. In doing so, the chargee's attention was drawn to the 2 private caveats lodged five years after the registration of the charge. The caveator alleged that it's caveatable interest was brought about by a binding and concluded agreement contained in a letter sent by the registered proprietor wherein the registered proprietor had agreed to sell the said lands to the caveator.

This was an application by the registered proprietor, under s. 326(1) of the National Land Code for the removal of the caveat. This application was heard together with an application under s. 327(1) of the National Land Code by the chargee bank.

Held:

[1] A registered chargee who applies for the removal of a caveat is in the same position as a registered proprietor (s. 340(1) of the National Land Code), and so has his registered title to rely on as *prima facie* evidence of his interest in the land.

[2] The caveator's claim did disclose a serious question to be tried as to whether there was any contract at all and the caveator had also succeeded in showing a triable issue as between himself and the chargee.

[3] There were sufficient grounds for continuing in force the caveats, thus preserving the *status quo*, until the claim for specific performance is adjudicated upon by the Court.

[Application dismissed.]

Cases referred to:

Eng Mee Yong & Ors. v. V. Letchumanan [1979] 2 MLJ 212
Hajjah Rajiah bin Haji Man v. Tai Cheng Finance Berhad [1987] CLJ (Rep) 618
American Cyanamid v. Ethicon Ltd. [1975] AC 396
Love and Stewart v. S.Instone & Co. [1917] 33 TLR 475
Harichand Mancharam v. Govind Luxman Gokhale [1922] LR 50 Ind App 25

Von Hatzfeldt-Wildenburg v. Alexander [1912] 1 Ch 284
South Hetton Coal Co. v. Haswell [1898] 1 Ch 456
Eng Ah Mooi v. OCBC [1983] 1 MLJ 209
Jit Kaur v. Parl Singh [1974] 2 MLJ 199
Macon Engineering Sdn. Bhd. v. Goh Hooi Yin [1976] 2 MLJ 53
Pearce v. Morris [1969-70] 5 LR Ch App 227
Concord v. Coles [1905] 3 CLR 96
Re Caveat of Lewis [1903] 23 NZLR SC 581

Legislation referred to:
National Land Code 1965, ss. 326(1), 327(1), 340(1)

For the defendant/appellant - M. Davis Morais; M/s. Shearn Delamore & Co.
For the plaintiff/respondent - R.R. Sethu; M/s. Adnan Sundra & Low

JUDGMENT

Edgar Joseph Jr J:

This was an application under s. 326(1) of the National Land Code ("the Code") by a registered proprietor Kam Mah Theatre Sendirian Berhad ("the registered proprietor") for removal of a caveat lodged against certain lands comprised in (a) Pegangan No. 1095, Mk. 12, D.B.D. Penang, (b) Lot No. 1610, Mukim 12, D.B.D. Penang held under Grant Mukim No. 79 and (c) Lot No. 1611, Mukim 12, D.B.D. Penang held under Grant Mukim No. 80 ("the said lands"). It was heard together with a similar application under s. 327(1) of the Code, being originating motion 66-89, by a chargee Malayan United Finance Berhad (now known as Mui Finance Berhad - "the chargee"), of the said lands as the two matters were intimately connected.

In considering both these applications I had reminded myself of the general principles which are applicable; they are conveniently enunciated by Lord Diplock in the Privy Council case of *Eng Mee Yong & Ors. v. V. Letchumanan* [1979] 2 MLJ 214 at p. 215 col. 1 as follows:

> ... a distinction must be drawn between cases where the applicant is the registered proprietor of the land (i.e., the caveatee) and cases where the applicant is some other person who claims a right to an interest in it. In the former case, the caveatee can rely upon his registered title as *prima facie* evidence of his unfettered right to deal with the land as he pleases; it is for the caveator to satisfy the Court that there are sufficient grounds in fact and law for continuing in force a caveat which prevents him from doing so ... It is otherwise when the applicant under s. 327 is someone other than the caveatee. He has no registered title to rely upon as *prima facie* evidence of his interest in the land. It is for him to begin by satisfying the Court that there are sufficient grounds in fact and law for treating him as a person claiming such an interest in the land as would, if it were established, make him aggrieved by the existence of the caveat ...

I would interpolate, to say, that a registered chargee who applies for removal of a caveat is in the same position as a registered proprietor (see s. 340(1) of the Code) and so has his registered title to rely on as *prima facie* evidence of his interest in the land. (See *Hajjah Rajiah bin Haji Man v. Tai Cheng Finance Berhad* [1987] CLJ (Rep) 618.

In *Eng Mee Yong's* case, (*ibid*), also at p. 215 columns 1 and 2 Lord Diplock added:

> ... in s. 327 (of the Code) it is provided that 'the Court ... may take such order on the application as it may think just.' The guiding principle in granting an interlocutory injunction is the balance of convenience; there is no requirement that before an interlocutory injunction is granted the plaintiff should satisfy the Court that there is a 'probability', a '*prima facie* case' or a 'strong *prima facie* case' that if the action goes to trial he will succeed; but before

any question of balance of convenience can arise the party seeking the injunction must satisfy the Court that his claim is neither frivolous nor vexatious; in other words, that the evidence before the Court discloses that there is a serious question to be tried. *American Cyanamid v. Ethicon Ltd.* [1975] AC 396.

The material facts to be garnered from the affidavit evidence may be stated briefly. On 13 June 1984, the registered proprietor of the said lands had charged them to the chargee for the purpose of securing the repayment of a loan of RM1,500,000 together with interest thereon on terms appearing in the charge.

The registered proprietor (the chargor) having defaulted with repayment of the loan, the chargee took the usual preliminary steps with a view to commencing foreclosure proceedings to enforce the charge. In doing so, its attention was drawn to the two private caveats aforesaid, both lodged on 12 April 1989; that it to say well nigh five years after the registration of the charge aforesaid. The caveatable interest alleged by the caveator Mr. L.S.Tan ("the caveator") in the case of both caveats was that by a binding and concluded agreement ("the alleged agreement") contained in the registered proprietor's letter on its notepaper dated 10 March 1989 ("the letter") the registered proprietor had agreed to sell to him the said lands at a total consideration of RM1,861,884. It was said that the caveator had entered into the alleged agreement as trustee for Grand Central Enterprise Sdn. Bhd. though this fact was not disclosed therein; however, nothing turns on this.

In order to elucidate the issues which arise for decision, I must reproduce the crucial contemporary documents, including the correspondence in the case, showing what they say.

The alleged agreement contained in the letter from the registered proprietor to the caveator (with emphasis supplied) was in the following terms:

Kuala Lumpur
10 March 1989

Dear Sirs,

Lot Nos. 1095, 1610 & 1611, Mukim 12, South West District, Penang

This letter serves to confirm that we have agreed to sell the following properties.

Particulars of title	Pegangan No.	Gross Area surrender (sq.ft.)	Net Area surrender(sq.ft.)
1. Perakuan Pendahuluan Mengenai Hakmilik (Advance Certificate of Title) Mukim 12, Daerah Barat Daya, Balik Pulau Negeri Pulau Pinang.	1095	106,412	84,961
2. "	1610	111,895	98,553
3. "	1611	125,507	17,362
Total		343,814	200,876 (approx)

to you as trustee at Malaysian Ringgit Nine (RM9) only per square foot of the total net saleable area of 200,876 (more or less) square feet in consideration of your payment of a deposit sum of Malaysian Ringgit Ninety Thousand Three Hundred and Ninety Four and Cents Twenty (RM90,394.20) the receipt of which is hereby acknowledged upon terms and conditions as follows:

1. that the purchase price is at Malaysian Ringgit Nine (RM9) only per square foot of the net saleable area of 200,876 (more or less) square feet;

2. that the aforesaid lands shall be free from all encumbrances;

3. that the purchase price shall be paid as follows;

(i) 15% of the purchase price on or before 18 March 1989 (which shall include the 5% paid hereinbefore).

(ii) another 30% of the purchase price on or before 18 April 1989;

(iii) another 30% of the purchase price on or before 18 May 1989;

(iv) another 25% of the purchase price on or before 18 June 1989;

provided that the sale and purchase agreement shall incorporate all the terms and conditions herein and other usual terms and conditions on or before 18 March 1989; otherwise the aforesaid sum of RM90,394.20) (equivalent to 5% of the purchase price) shall be refunded to you free of interest without demand forthwith;

4. that the vendor's solicitors shall be stakeholder for 5% of the purchase price for the payment of Real Property Gain Tax (if any) and the vendor shall provide a bank guarantee to the purchaser's solicitor;

5. that the purchaser's solicitor is authorised to pay the total proceeds of the sale to Malayan United Finance Berhad or any financial institution for the purpose of discharging the aforesaid properties for completion of sale and purchase of the aforesaid properties. In the event that the payment of the aforementioned sum is insufficient to redeem the said properties from the said finance company or any financial institution, then the vendor will pay the additional sum for the purpose of enabling the aforesaid properties to be discharged and redeemed from Malayan United Finance Berhad and or other financial institution;

6. all payments will be paid in accordance to the schedule above referred to. Any defect in payment in accordance to the schedule above written, the vendor is entitled to forfeit the sum equivalent to 10% of the purchase price;

7. that each party shall bear their own respective solicitors' costs;

8. that all stamp fees and registration fees for the transfer of the properties shall be borne by the purchaser;

9. that the vendor shall bear all incidental charges costs and expenses for securing the discharges of the charges to Malayan United Finance Berhad in respect of the properties.

Yours faithfully,
Kam Mah Theatre Sendirian Berhad
sgd. Yap Chin Chuan
(Authorised Representative)

On 11 March 1989, the caveator wrote to the solicitors for the registered proprietor forwarding his cheque for RM93,094.20 being the deposit referred to in the alleged agreement, and at the same time, forwarding a draft of the formal sale and purchase agreement. (See Ex. YYC 3 to En.8).

Not having heard from the solicitors for the registered proprietor, the caveator sent to them a reminder dated 15 March 1989 (p. 1 of Ex.YYC 4 to En.8) as follows:

Dear Sirs,
Re Sale and Purchase of Properties etc.

We refer to our letter dated 11 March 1989 with respect to the purchase of the above mentioned properties and are obliged to point out that the sale and purchase agreement has to be approved and then executed on or before Saturday 18 March 1989.

Your clients, M/s. Kam Mah Theatre Sdn. Bhd. have undertaken to deliver to you our aforesaid letter, draft agreement and cheque. We are informed that the same have been delivered to you.

Yours faithfully,

sgd. L.S. Tan

As the reminder evoked no response, the caveator wrote a further letter dated 18 March 1989 (p. 2 Ex.YYC 4 to En.8) to the solicitors for the registered proprietor as follows:

Dear Sirs,
Re Sale and Purchase of Properties etc.

We enclose herewith the following:

1 Sale and purchase agreement in quadruplicate duly signed by our Mr. Tan as trustee:

2 our clients' cheque No.CKB 719948 for the sum of RM2,700 (RM93,094.20 - RM90,394.20) being short payment of the 5% of the purchase price referred to in clause 2(a);

3 our cheque No. SC 745262 for the sum of RM186,188.40 being the 10% of the purchase price payable under clause 2(b) of the sale and purchase agreement;

for you to do the needful.

We confirm that all the terms and conditions of the sale and purchase agreement have been agreed to between our Mr. Tan and your Ms. Sar except for clause 17 for which instructions thereon have to be sought by you from your clients.

If your clients are agreeable, kindly return to us the sale and purchase agreement duly signed for us to carry out the stamping. The deadline for execution of the aforesaid agreement is 18 March 1989.

Kindly acknowledge receipt by signing on the duplicate copy of this letter.

Yours faithfully,

Sgd. L.S. Tan

Then, on the same day, the solicitors for the registered proprietor replied by letter (p. 3 YYC 4 to En.8) as follows:

Dear Sirs,
Sale and Purchase of Properties etc.

We acknowledge receipt of your letter of even date together with the enclosures stated in para. 1 thereof.

In reply to para. 2 of your letter, we wish to confirm that we have informed your Mr. Tan this morning that clause 3 of the agreement is also subject to our client's instructions that the same is acceptable to them. Accordingly we are taking our client's instructions on clause 3 and 17 of the agreement.

Yours faithfully,

Sgd. Shearn Delamore & Co.

a Upon receipt of the letter from the solicitors for the registered proprietor, the caveator, also on the same day, wrote a letter (p. 4 YYC 4 to Encl. 8) on the assumption that there was a subsisting contract, as follows:

> Dear Sirs,
> **Re Sale & Purchase of Properties**
>
> *b* We thank you for your letter dated 18 March 1989.
>
> We would be much obliged if you could let us have a copy of the redemption advice from M/s. Malayan United Finance Berhad that your Ms. Sar Sau Yee confirmed on 17 March 1989 and again on 18 March 1989 to have received for our record.
>
> Our Mr. Tan was also additionally informed repeatedly by your Ms. Sar Sau Yee that your clients have advised you that they have received the letter of confirmation from the Authority
> *c* that the notice to acquire the six thousand (6,000) square feet hitherto has been withdrawn. We have repeatedly asked for sight of the advice of withdrawal from the Authority but this still remains outstanding at date of this letter.
>
> Kindly acknowledge receipt on the duplicate copy of this letter.
>
> Yours faithfully,
>
> *d* Sgd. L.S. Tan

However, the solicitors for the registered proprietors wrote to the caveator a letter dated 21 March 1989 (p. 5 YYC 4 to En.8) - three days **after** the date fixed for execution of the formal sale and purchase agreement - stating as follows:

> Dear Sirs,
> *e* **Re Sale and Purchase of Properties**
>
> We refer to your letter dated 18 March 1989 (received by us on 20 March 1989) and to the telephone conversations with your Mr. L.S. Tan yesterday and today.
>
> We wish to inform you that to date we have yet to receive our client's specific instructions on the terms and conditions of the sale and purchase agreement forwarded to us on 18 March 1989. As soon as we receive final instructions we shall revert to you on your said letter.
>
> *f*
> Yours faithfully,
>
> Sgd. Shearn Delamore & Co

And then, on 23 March 1989 - five days **after** the date for execution of the formal sale and purchase agreement - the solicitors for the registered proprietors wrote a letter (p. 6 YYC 4 to En.8) to the caveator stating, in effect, that the deal was off and returning the deposit
g and the caveators' two cheques. That letter was as follows:

> Dear Sirs,
> **Re Sale & Purchase etc.**
>
> We refer to our letter of 21 March 1989.
>
> *h* We regret to inform you that our clients' instructions are that they do not accept and agree to the conditions of the proposed agreement thereof in pursuance of clause 4 of the Terms and Conditions of Tender, and as instructed by our clients, we return herewith your two (2) cheques Nos. 719948 and 745562 for the respective sums of RM2,700 and RM186,188.40 and the four (4) copies of the proposed sale and purchase agreement. We further enclose our cheque for the sum of RM90,394.20 being the initial 5% paid to us as stakeholders.
>
> *i* Yours faithfully,
>
> Sgd. Shearn Delamore & Co.

The caveator then through his solicitors sent to the solicitors for the registered proprietor a letter before action, and, on 15 May 1989, the caveator caused to be issued the writ herein accompanied by a statement of claim praying for specific performance of the alleged agreement and for the usual consequential orders.

By their defence the registered proprietor contended that although it had agreed to sell the lands to the caveator this was subject to the condition that a formal sale and purchase agreement incorporating all the terms and conditions appearing in the letter **and other usual terms and conditions** was to be concluded on or before 18 March 1989, but it was not so concluded, and that consequently there was no concluded contract.

It was further contended by the registered proprietor that as the parties had failed to agree on two terms contained in the draft agreement of sale and purchase; namely, clause 3 (stakeholders clause) and clause 17 (making agreement binding on successors in title), there was no obligation on the part of the registered proprietor to execute the formal sale and purchase agreement.

In particular clause 3 read as follows:

> The deposit sum hereinbefore mentioned in clause 2(a) has been paid to M/s. Shearn Delamore & Co. Advocate & Solicitors of No.2 Benteng, 50050 Kuala Lumpur (hereinafter referred to as "the vendor's solicitors") before the execution of this agreement and the receipt of which is hereby acknowledged by the vendor. The vendor's solicitors are hereby authorised to release the deposit sum to the vendor on execution of this agreement.

Clause 17 reads as follows:

> This agreement shall be binding upon the successors in title of the vendor and the legal representatives and assigns of the purchaser.

By his reply, the caveator contended that the registered proprietor could not rely and is estopped from relying on the failure to execute the formal sale and purchase agreement on or before 18 March 1989 because the registered proprietor:

(a) did not intimate its non-acceptance of the incidental terms (clause 3 and 17) within the time fixed for signing the formal sale and purchase agreement,

(b) although it had sufficient time to consider whether it would accept the incidental terms included in the draft sale and purchase agreement, it did not do so timeously,

(c) notified its rejection of the incidental terms but only after the expiry of the time limited for the execution of the formal agreement of sale and purchase,

(d) did not after such rejection out of time allow the caveator reasonable time thereafter to execute the formal sale and purchase agreement omitting the incidental terms objected, and

(e) was seeking, but should not, be allowed, to take advantage of its own default to avoid its ability to the caveator.

So far as the chargee was concerned, it was contended that as the charge was created nearly five years **before** the date of the alleged agreement, it was clear that the caveator had had notice of the prior interest of the chargee but had chosen to ignore the same and to enter into the alleged agreement. The case of *Hajiah Rajjah binti Haji Man v. Tai Cheng Finance* (*ibid*) was cited in support.

In reply, the caveator has stated that he had requested the chargee's solicitors to disclose the amount outstanding under the charge so that if the registered proprietor did not pay the same then he would do so but there was no response to this enquiry. Again it was said that the motion by the chargee to remove the caveats had been filed without disclosing the amount due under the charge thus denying the caveator the opportunity to redeem the lands. It was contended that as a purchaser the caveator was entitled to redeem the lands to protect his rights under the alleged agreement and the chargee was not at liberty to deny him that right.

Clearly, as between the registered proprietor and the caveator the primary issue was whether the alleged agreement contained in the letter constituted a binding contract having regard to the words therein and also the actions and conduct of the parties as explained by all the surrounding circumstances, in particular, the contemporary correspondence.

I think it is not an unfair summary of the arguments advanced on behalf of the caveator if I said that his case is that the parties (the caveator and the registered proprietor) were content to be bound immediately and exclusively by the terms they had agreed upon in the letter whilst expecting to make a further contract in substitution for the first contract, containing, by consent, additional terms, being "usual terms". My research into the authorities has uncovered an illustration of such a possible case; it is mentioned by Lord Loreburn in *Love and Stewart v. S.Instone & Co.* [1917] 33 TLR 475 at p. 476 col.1 para. 1 when he said:

> It was strongly in favour of the appellants that in the correspondence both parties spoke of a contract between them, and stated, or acquiesced in the statement, that, though a formal document was intended by both, their contract was meanwhile confirmed. It was quite lawful to make a bargain containing certain terms which one was content with, dealing with what one regarded as essentials, and at the same time to say that one would have a formal document drawn up with the full expectation that one would by consent insert in it a number of further terms. If that were the intention of the parties, then a bargain had been made, none the less that both parties felt quite sure that the formal document could comprise more than was contained in the preliminary bargain. But if the intention were that what was agreed in the first instance should be subject to the completion of the formal document then there was no bargain while that condition remained unfulfilled.

And perhaps, the same ideas expressed by Lord Loreburn were contemplated by Mr. Ameer Ali in the Privy Council case of *Harichand Mancharam v. Govind Luxman Gokhale* [1922] LR 50 Ind. App. 25, when he speaks of subsidiary terms that a vakil might consider necessary for insertion in a formal contract, although his allusion might be to terms implied because they are usual.

On the other hand, it is not an unfair summary of the arguments advanced on behalf of the registered proprietor if I said that its case is that the letter was directed to the making of a formal contract which was a condition of the bargain and not a mere expression of the desire of the parties as to the manner in which a transaction already agreed to, will in fact go through. (See *Von Hatzfeldt-Wildenburg v. Alexander* [1912] 1 Ch 284.

I recognised that if the caveator's claim did not disclose a serious question to be tried, even though the Court is so satisfied after a relatively long and elaborate argument, the right course would be for the Court, to order removal of the caveat (applying the principles enunciated by Lord Diplock in *Eng Mee Yong's* case (*ibid*)).

Similarly, had the registered proprietor in this case applied to strike out the statement of claim on the ground that it disclosed no reasonable cause of action, I would, if satisfied that it appeared **clearly** that there was no contract between the parties, have acceded to that

application. (See *South Hetton Co. v. Haswell* [1898] 1 Ch 456). But when, as here, the party applying for removal of a caveat is the registered proprietor of the land or registered chargee thereof, the onus is upon the caveator to show that there are sufficient grounds in fact and law for continuing in force the caveat. (Per Lord Diplock in *Eng Mee Yong's* case (*ibid*) at p. 155).

With these principles in mind and having given the fullest consideration to submission of Counsel, I was satisfied that the caveator's claim did disclose a serious question to be tried as to whether there was any contract at all.

I next turned to consider the application by the chargee.

I confess that I was at first blush much impressed by the submission of Counsel for the chargee that the charge having been created nearly five years before the date of the alleged agreement, the caveator must be deemed to have had notice thereof by virtue of the doctrine of constructive notice.

But, reflection revealed that the chargee's argument may be an oversimplification of the issue.

In *Eng Ah Mooi v. OCBC* [1983] 1 MLJ 209, FC, Salleh Abbas, FJ, at 210 col 2 F to I said this:

> Just as a mortgage is not irredeemable, likewise a charge is not undischargeable. Under English Law a mortgagee (this should read mortgagor) or any person interested in the mortgaged property has the right to demand (of) the mortgagee to redeem the mortgage on tendering the amount of debt together with interest thereon due on the mortgage. *Pearce v. Morris* [1869-70] 5 LR Ch App 227. We see no reason to hold that this rule of English law is inapplicable to the present appeal. In our view this rule is applicable although a lot has been said elsewhere about the differences between the common law mortgage and a charge under the Torrens System.

Accordingly, I felt bound to hold that the caveator had also succeeded in showing a triable issue as between himself and the chargee.

For the sake of completeness, I had also reminded myself of certain general considerations which I thought should guide me. I refer to the observations by the gifted lawyer Mr. S.K. Dass which were quoted with approval in *Jit Kaur v. Parl Singh* [1974] 2 MLJ 199, 201 and in *Macon Engineering Sdn. Bhd. v. Goh Hooi Yin* [1976] 2 MLJ 53, 58.

At p. 325, on the purpose of a caveat, the learned author says this:

> It enables the caveator to retain the matter in *status quo* until his claim is adjudicated upon by the Court and serves as a notice to the world at large of an outstanding equitable claim. The lodging of a caveat is really in the nature of the initiation of litigation, and only those persons should be entitled to initiative litigation who are entitled to litigate the matter of the dispute which is set up by the caveat, Municipal District of *Concord v. Coles* [1905] 3 CLR 96 at p. 108, per Griffith CJ.

And, at pp. 347 and 348, on the approach which the Courts should adopt when considering applications of the present kind, he says this:

> In dealing with applications for the extension of the operation of or for the removal of caveats against dealings with land it has always been the desire of the Court to allow the parties the fullest opportunity to litigate any matter that may be in dispute between them. The Court is loth to prevent parties litigating any right that they think they may possess: In *re Caveat of Lewis* [1903] 23 NZLR SC 581.

In all the circumstances, regard being had to the relevant principles, not forgetting the balance of convenience, the interests of all parties concerned and how best they may be protected, always keeping in mind the foreseeable positions at the final hearing, considerations of hardship in the meantime and other relevant discretionary factors, I was satisfied there were sufficient grounds for continuing in force the caveats, thus preserving the *status quo*, until the claim for specific performance is adjudicated upon by the Court.

In the result, both the applications were dismissed with costs and an early trial ordered of the suit herein.

Also found at [1990] 1 CLJ 1231